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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/077,456
Filing Date: May 29, 1998
Appellant(s): ANTHONY ET AL.

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GROUP 3600

Thomas A. Corrado (Reg. No. 42,439)
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed August 30, 2006 appealing from the Office action mailed December 7, 2005. (The supplemental summary of invention to appeal brief filed July 19, 2007 has been entered.)

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

A previous decision by the Board on the instant application.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

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The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,485,370

MOSS et al.

1-1996

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 6-22, 24-30, 33-37, 40-51 and 53-55 are rejected under 35

U.S.C. 102(e) as being anticipated by Moss et al (5,485,370).

Claims 4, 5, 23, 38, 39 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moss et al (US Patent 5,484,370).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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Claims 1, 6-22, 24-30, 33-37, 40-51 and 53-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Moss et al (5,485,370).

Moss et al disclose:

Claim 1. A method for providing remote access to financial services comprising the steps of:

a) providing at least one business host (Fig. 1 {20a-20d}, col. 7, lines 20-24, wherein "any of service computers or hosts 20a-20d" in the system indicating reference's teaching "providing at least one business host");

b) selectively electronically linking a server to the business host (Fig. 1 {8 connected to 20a-20d}, wherein host computer functioning as "server", as indicated by: "host 8 supplying software applications to the user terminal 2, the application enabling user to respond prompts relating to accessing service computers 20-20d, col. 8, lines 10-19", and the host 8 is "connected or linked to 20a-20d" as indicted by the arrows, Fig. 1. Moreover, connection or linking is electronic since reference is a computer implementation and the connectivity or linking occurring when the requisite business host is chosen or selected by the user for service it provides; i.e., reference teaches claimed "selective(ly) electronic(ally) connectivity or linking"); and

c) selectively electronically linking (**As discussed above, reference teaches selective electronic connectivity or linking**) at least one automated teller machine (ATM) and at least one home banking terminal to the server (Col. 29, lines 55-62, wherein cited "banking customer sending to and gathering information from the hosts {20a, 20b, Fig. 1} via ATM or telephone computer" indicating reference's teaching

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"ATM" and the telephone computer functioning as "home banking terminal" and as depicted in Fig. 1, the telephone computer or home banking terminal is connected to above discussed host computer or server 8, col. 7, lines 4-5. Furthermore, support relative to reference's teaching "ATM" is provided by: "The display screen's left hand portion depicting simulated keypad of an ATM, Fig. 19, described col. 30, lines 39-42");

d) based on the electronic linking **(As discussed above, connectivity or linking electronically occurring depending or based on the banking customer's or user's choosing or selecting to employ ATM or telephone computer or home banking terminal)** displaying a first user interface on a screen of the ATM and displaying a second user interface on a screen of the home banking terminal, wherein the first user interface and the second user interface are substantially the same (Fig. 19 {left hand portion}, described col. 30, lines 39-42 and col. 8, lines 30-39, wherein cited "left hand portion in Fig. 19" depicting "display and 12-key keypad" representing "first interface on ATM screen" and "depicted prompts on display 2a {of telephone computer or home banking terminal}, such as user's last response, information sought and list of prompts indicating choices available to the user by pressing single buttons on the keypad" indicating reference's teaching "second interface" which comprising "a display and 12-key keypad, Fig. 1 {2a}, described col. 4, lines 7-15 recited with col. 13, lines 39-43. Moreover, the depiction and description of the two interfaces indicating reference's teaching "first and second interfaces are closely or substantially similar or same").

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Claim 6. A method for performing financial transactions from a location remote from a business host comprising (Fig. 1 {2 or 10 communicating to 20a-20d via 6 in 8} described col. 7, lines 20-28, wherein cited "2 and 10 are home terminals" performing "banking etc., services with networked or remote service or host computers 20a-20d) the steps of:

a) providing an automated teller machine (ATM) having a first user interface for display on a screen of the ATM (Col. 29, lines 55-62 and Fig. 19, described col. 30, lines 39-49, wherein "user at ATM or telephone computer sending and gathering information from the hosts, above discussed 20a-20d" indicating reference's "provisioning or providing an ATM" and cited "upper left hand portion of the screen, Fig. 19, depicting a display and 12-key keypad" pointing to reference's teaching the ATM having "interface or first user interface on ATM" and "displaying simulation screen of Fig. 19 to the programmer" indicating reference's provisioning functionality for "displaying" of the interface on an "screen including ATM screen");

b) installing user software on a remote terminal, the remote terminal having a second user interface for display on a screen of the remote terminal the second user interface is substantially identical to the first user interface (See discussion of Applicant's claim 4a) below and id) above);

c) configuring the user interfaces to display data in a language selected by a user (See discussion of Applicant's claims 4b and 5 below);

d) establishing an electronic link between the remote terminal and a server (Fig. 1 {2 connecting to 8}, col. 7, lines 4-9, wherein cited "home terminal 2 connected via

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telephone circuit 3 to session controller in 8" indicating reference's teaching means for "providing or establishing connectivity or linking" between the terminal 2 and host computer 8" which means a user would use for claimed purpose, cited "home terminal 2" representing "remote terminal" and as discussed above "the host computer 8" functioning as "server"); and

e) establishing an electronic link between the server and a business host (See discussion of Applicant's claim 1b) above).

Claim 7. The method of claim 6 further comprising the step of authenticating the identity of a user by comparing a personal identification number (PIN) of a user with a PIN resident on the server (Col. 22, lines 61-67 recited with col. 25, lines 56-61, wherein cited "integrator 132, col. 22, line 47-48, calling support processor 114 storing customer database, account list information etc., for ensuring user's proper clearance level to use a given external service provider" reference's teaching "confirming user's authenticity" process, and cited "PIN, password" pointing to user's "identity" information or code. Moreover, cited "stored customer database" indicating to user "name, address, above cited PIN, password etc.", and above discussed "calling support processor 114, {Fig. 11} functioning as storage area, for ensuring user's proper clearance level" indicating that the PIN, password are validated or authenticated by "examining or comparing" the user's PIN, password with ones in the support processor 114's customer database and the support processor is an element of the network or host computer 8, Fig. 1 or 60, Fig. 10, as indicated by: "Many of the Fig. 11 elements functionally

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corresponding to elements of Figs. 1 and 10" and as discussed above, host computer 8 functioning as "sever").

Claim 8. The method of claim 6 further comprising the step of encrypting and transmitting data between the remote terminal and the server (Col. 8, lines 62-64, wherein "TPI 10 generating random encryption key numbers" indicating reference's teaching an "encryption" process and "transmission of encrypted confidential information" pointing to reference's teaching "transmitting" function which function a user would employ "transmitting the encrypted information from and to or between above discussed home or remote terminal and host computer or server 8).

Claim 9. The method of claim 6 in which the step of installing user software on a remote terminal is performed by installing the software on a personal computer (Col. 20, lines 46-55, wherein "network host computer 60 downloading or installing application program or software to microcomputer 19 or PC, col. 18, line 29).

Claim 10. The method of claim 6 in which the step of installing user software on a remote terminal is performed by installing the software on a personal data assistant (Col. 35, line 21-25 read with col. 36, lines 27-31, wherein "downloading application program to the terminals" indicating reference's teaching "installing software or user software on terminal or remote terminal {as discussed above home or telephone

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computer representing remote terminal}, and cited "heterogenous terminals" being generic term encompassing claimed "personal data assistant").

Claim 11. The method of claim 6 further comprising the step of performing a financial transaction (Col. 1, lines 38-49, wherein cited "user's home computer obtaining or performing financial or other transactions" indicating reference's teaching claimed limitation).

Claims 12 and 41. The method of claims 11/35 in which the step of performing a financial transaction is performed by editing a payee list (Fig. 14 {532, Text editor and 534, Graphics editor}, and col. 29, lines 62-65, wherein cited "editors" indicating reference's teaching "editing" means and "lists" in "data dictionary comprising lists" being generic term encompassing "payee list" and a user would employ cited "editors claimed purpose).

Claims 13 and 42. The method of claims 11/35 in which the step of performing a financial transaction is performed by authorizing a direct debit (Col. 8, line 23, wherein cited "pressing {button etc.} to authorizing auto payment" indicating reference's provisioning an "authorizing" function, which function a user would use for claimed purpose).

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Claims 14 and 43. The method of claims 11/35 in which the step of performing a financial transaction is performed by deleting a direct debit (Col. 28, lines 49-50, wherein cited "Deleting From" indicating reference's teaching a "deleting" function, which function a user would use for claimed purpose).

Claims 15 and 44. The method of claims 11/35 in which the step of performing a financial transaction is performed by purchasing a mutual fund (Col. 14, lines 57-67, wherein cited "checking stock market listings from stock market information service" implying reference's provisioning conducting of transactions relative to "stock market services" and the stock market services encompassing "buying or purchasing mutual fund(s)").

Claims 16 and 45. The method of claims 11/35 in which the step of performing a financial transaction is performed by selling a mutual fund (Col. 14, lines 57-67, wherein cited "checking stock market listings from stock market information service" implying reference's provisioning conducting of transactions relative to "stock market services" and the stock market services encompassing "sales of or selling mutual fund(s)").

Claims 17 and 46. The method of claims 11/35 in which the step of performing a financial transaction further comprises the steps of:

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a) selecting a mutual fund (Col. 9, lines 21-25, wherein cited “user selecting a desired service from the menu depicted on home or remote terminal display” indicating reference’s teaching a “choosing or selecting” function, which function a user would use for claimed purpose); and

b) reviewing a mutual fund (Col. 13, lines 57-67” wherein cited “user checking stock market information” indicating reference’s teaching “a checking or reviewing” function, which function a user would use for claimed purpose).

Claims 18 and 47. The method of claims 11/35 in which the step of performing a financial transaction is performed by reviewing account information (Col. 8, lines 20-22, wherein cited prompts or options “press 4 for checking account etc.” indicating reference’s teaching “options or prompts” for “carrying out or examining or reviewing information relative to various accounts”).

Claims 19 and 48. The method of claims 11/35 in which the step of performing a financial transaction is performed by reviewing securities information (Col. 13, lines 57-67, wherein user’s “checking stock market information” indicating reference’s provisioning a “checking or examining or reviewing” function and “stock market information” encompassing “information relative to securities” and a user would employ the checking or examining or reviewing function for claimed purpose).

Claims 20 and 49. The method of claims 11/35 in which the step of performing a financial transaction is performed by generating a transaction journal (Fig. 14 {542} and col. 27, lines 53-55, wherein cited "reports utility generating reports" indicating reference's teaching a "report or journal creating or generating" function, which function a user would use for claimed limitation).

Claims 21 and 50. The method of claim 11 in which the step of performing a financial transaction is performed by transferring assets from a first account selected from a plurality of accounts to second account selected from the plurality of accounts (Col. 18, lines 54-60 and col. 8, lines 21-39, wherein cited "user responding to the prompt: transfer required {by the user}" indicating reference's teaching "{funds or assets} transferring" function, and "cited "checking, savings, money market etc., accounts" indicating reference's teaching "plurality of A/Cs" and a user would use the transferring function for transferring, for instance, funds or assets from checking A/C {first account selected} to the savings or money market or second A/Cs, as further supported by: "user transferring funds from one A/C to another, col. 3, lines 6-9).

Claims 22 and 51. The method of claim 21 further comprising the step of exchanging the assets of the first account to a currency consistent with the second account (Fig. 17 {\$999,999.99 -> 999.999,99 DM}, wherein \$ amount in one or first above discussed A/C and DM amount in another or second A/C are equivalent or consistent with each other).

Claims 24 and 53. The method of claim 11 in which the step of performing a financial transaction is performed by printing an account statement (Fig. 16 {Printer Forms}, col. 29, lines 25-27, wherein cited "printer forms including ATM receipts" indicating reference's teaching a "printing" function and "forms or ATM receipts" representing "A/C statement" and a user would employ the printing function for claimed limitation).

Claims 25 and 54. The method of claim 11 in which the step of performing a financial transaction is performed by printing a balance summary (As discussed above, "printer forms including ATM receipts" indicating "printing forms or ATM receipts" and "receipts" representing a "balance summary").

Claims 26 and 55. The method of claims 11/35 in which the step of performing a financial transaction is performed by processing a payment (Col. 3, lines 6-9, wherein cited user "paying bills, transferring funds among A/Cs" indicating reference's teaching "conducting or processing payments").

Claim 27. The method of claim 6 in which the step of establishing an electronic link between the remote terminal and a server further comprises the steps of:

- a) sending an authorizing message to the server (Col. 8, lines 8-23, wherein (pressing (button etc.) to authorizing auto payment" indicating reference's teaching an

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“authorizing” function. Moreover, communication occurring between above discussed home or remote terminal and host computer or server 8, col. 8, lines 10-16, pointing to that “a message authorizing the transfer is communicated or sent from the terminal to the host or server”);

b) sending the authorizing message to a bank security server (As discussed above, the authorizing message is communicated from the remote terminal to the host or server which translates it into the service provider computer's format and then transmits the authorizing message to the service provider, such as bank 20a, Fig.1, and the bank computer functioning as “security server”); and

c) sending the authorizing message to a bank hardware encryption device (As discussed above, the authorizing message is transmitted or sent by the terminal 2 to bank 20 computer via the host computer or server 8. Moreover, reference teaching “encryption, col. 8, lines 62-65 and also reference's teaching: network host computer 8 physically configuring as portion or a computer serving as a bank service computer, col. 7, lines 28-34” pointing to integration of “the TPI 10, the encrypting means or device including requisite hardware and software” into the bank service computer” which thereby implying reference's teaching the claimed limitation).

Claim 28. The method of claim 6 in which the step of establishing an electronic link between the server and a service provider further comprises the steps of:

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a) sending an authorizing message to the business host (As discussed in claim 27b) above, where the bank computers 20a or 20b representing "host or business host, col. 7, lines 23-25"); and

b) sending a message from the business host to the server, in which the message authorizes hookup (Claim 1 {9}, Fig. 1 {20a, 20b communicating to 8}, wherein "communication" pointing to "transmitting or sending message", as discussed above, "20a and 20 b" are business host, computer 8 functioning as server and communication between them is indicated by arrows. Moreover, above discussed "authorizing message" is provided to 20a or 20b to make payment automatically, i.e., the authorizing message allowing claimed "authorizing hookup").

Claim 29. The method of claim 6 further comprising the step of sending a marketing message from the business host to the remote terminal (Fig. 1 {20a, 20b to 2 via 8} and col. 1, lines 47-49, wherein "obtaining information or performing financial transactions" indicating reference's teaching "communicating or sending message(s) among above discussed business computers or hosts 20a or 20b and the terminal or remote terminal 2 and the message encompassing claimed "marketing message").

Claim 30. A system for providing remote access to financial services comprising;

a) at least one business host (See discussion of Applicant's claim 1a) above);

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b) a server selectively electronically linked to the business host (See discussion of Applicant's claim 1b) above);

c) at least one automated teller machine (ATM) having a first user interface displayed on a screen of the ATM, in which the ATM is electronically linked to the server (See discussion of Applicant's claim 1c) above excluding discussion about home banking terminal); and

d) at least one home banking terminal having a second user interface displayed on a screen of the home banking terminal, in which the home banking terminal is electronically linked to the server and in which the first and second user interfaces are substantially the same (Fig. 1 {2 connected or linked to 8 via 3), col. 7, lines 4-9, wherein cited "2" is a "home or home banking terminal", computer 8 functioning as "server" as indicated by: "host 8 supplying software applications to the user terminal 2, the application enabling user to respond prompts relating to accessing service computers 20-20d, col. 8, lines 10-19", and see discussion about "the home or home banking terminal having an interface displayed on its screen 2a" and "first and second interfaces are substantially same" in Applicant's claim 1d) above).

Claim 33. A system for providing remote access to financial services comprising:

- a) at least one business host (See discussion of Applicant's claim 30a) above);
- b) a server selectively electronically linked to the business host (See discussion of Applicant's claim 30b) above);

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c) at least one automated teller machine (ATM) electronically linked to the server in which the ATM displays on a screen of the ATM a first user interface in a language selected by a user (See discussion of Applicant's claim 30c) above) and col. 8, lines 30-39 and Fig. 17 (English, German), wherein cited "select account desired, col. 8, line 33 and series of help prompts being selectable by pressing a button, col. 8, lines 37-39" indicating reference's teaching a "selecting" function, which function a user would use for selecting a language, such as English or German, Fig. 17);

d) at least one home banking terminal further comprising a user supplied platform and user software installed thereon in which the home banking terminal displays on a screen of the home banking terminal a second user interface in the language (Fig. 1 {Home terminal 2 and display 2a}, col. 7, lines 4-12 recited with col. 8, lines 8-28 and Fig. 17 described col. 30, lines 7-13, wherein cited "Home terminal 2" representing "at least one home or home banking terminal" and "the home terminal with display 2a" functioning as "user's or user supplied platform" as indicated by: "network computer supplying HAL software applications to terminal 2 {on its display 2a}, col. 8, lines 10-13" and "supplying HAL software applications on the terminal's display 2 enabling the user to respond to prompts, col. 8, lines 10-16" pointing to "installing user software on a screen {display} of the home banking terminal" and "selection queries: Input User Code, Press 4 checking A/C etc., col. 8, lines 20-24, depicted on the display 2a" pointing to provisioning "a second interface" and when the user selecting above discussed English or German language, the display 2a would depict the interface relative "the selected or in the language");

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e) in which the first and second user interfaces are substantially identical (See discussion about “interfaces are substantially same” in Applicant’s claim 1d) above).

Claim 34. The system of claim 33 in which the user software further comprises:

a) a runtime application (Fig. 14 {554, 562, 510 and 512}, described col. 26, lines 57-61, col. 27, lines 4-6 and col. 28, lines 4-6, wherein cited “runtime drives running runtime files” indicating reference’s provisioning “runtime program or application”);

b) an installation program (Col. 28, lines 13-18, wherein installing codes in target 504” pointing to reference’s teaching an “installing function or program”);

c) a configuration program (Col. 13, lines 23-27, wherein “loading home terminal with application pages requisite for accessing the service {such as 20a-20d}, using the program user effecting transactions with the service providers” pointing to “user terminal is configured with application or program); and

d) a help program (Col. 8, lines 29-39, wherein “display 2a depicting “series of help prompts” indicating reference’s teaching “help function or program).

Claim 35. The system of claim 33 in which the server further comprises:

a) a packet assembler/disassembler (Abstract, lines 11-12, wherein cited “PAD” is a “packet assembler and disassembler”);

b) a session controller (Fig. 1 {Session Controller 6};

- c) a customer activated terminal (CAT) terminal protocol interface (Fig. 1 {2}, col. 7, lines 4-9, wherein cited "home terminal 2" functioning as "CAT", as indicated by: "terminal {2} used to initiating communication by pressing a key assigned for initiating access request, col. 15, lines 34-37" and in response to pressing the a number of application programs comprising prompts, such as Input code {ID, password and the like}, Press 4 for Checking A/C and the like, are downloaded by host to the terminal which enable user to perform requisite actions and obtaining results, such as by responding to the prompt "Input code" user inputting his code {ID, password and the like}, he gets connected or access to requisite service provider computers 2a-20d);
- d) a terminal application front end (Fig. 14 {556}, col. 28, lines 6-9, wherein "556 being an intelligent terminal" indicating reference's provisioning "a program or terminal application front end enabling the terminal to function as intelligent terminal");
- e) a CAT session manager (Fig. 1 {Session manager 12}, wherein a user would cited "session manager" for above discussed CAT);
- f) a CAT common integrator (Fig. 1 {Common integrator 14}, wherein a user would cited "Common integrator" for above discussed CAT);
- g) an activity log server (Fig. 12 {130}, col. 22, lines 42-44, wherein "session manager governing activity logging" indicating "session manager's functioning as activity log server");
- h) a secure encryption server (Col. 8, lines 62-63, wherein cited "TPI generating encryption key numbers" pointing to TPI's functioning as "secure encryption server");

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i) a host message normalizer (Col. 10, lines 10-17, wherein "host computer 8 formatting information packets or messages" indicating computer's functioning as "a host message normalizing means or normalizer");

j) an X.25 normalizer (Fig. 13 {Ethernet X.25}, col. 24, lines 51-53, wherein "interchanges receiving message through X.25" indicating reference's provisioning claimed "X.25 normalizing means or normalizer"); and

k) at least one business application {Fig. 11 {128, col. 21, line 32 cited "application program" representing "at least one application" and it is relating to business as indicated by: "bank and other transactions, col. 23, lines 1-5)}.

Claim 36. The system of claim 33 in which the electronic links between the server and the business host, the ATM and the remote terminal are secure (Col. 22, lines 42-43, wherein cited "session manager handling security" indicating reference's provisioning a "secure connectivity or linking system" and the system including above discussed computer 8 or server, business hosts 20a-20d and ATM communicating with each other).

Claim 37. The system of claim 33 in which the electronic links between the server and the business host, the ATM and the remote terminal carry data transmissions in which at least some of the data transmissions are compressed and in which enhanced error detection and correction are used to preserve the integrity of the data being transmitted (Fig. 1, col. 10, lines 54-56, wherein cited "sliding windows

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protocol's use for error detection correction" indicating reference's teaching "error detecting and correcting or enhanced error detection and correction" procedure and its use consequenting into "reliability or integrity of information or data communication or transmission" among various components of the home services delivery system, Fig. 1, including above discussed server, business hosts, home or remote terminals and ATM).

Claim 40. The system of claim 33 in which there are at least two business hosts where a first of the business hosts is a user's home institution and the second of the business hosts is an outside business provider (Fig. 1 {20a-20d}, wherein any of the cited "business hosts" representing "home institution(s)" for local users and "outside institution/service provider" for outside/foreign users).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 23, 38, 39 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moss et al (US Patent 5,484,370).

Moss et al disclose:

Claim 4. A method for allowing a plurality of users to remotely access the

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financial services of at least one service provider comprising the steps of:

a) installing user software on a plurality of remote terminals available to all users wishing to access the financial services, the plurality of remote terminals including a first terminal and a second terminal, wherein the second terminal is of a different type than the first terminal (Col. 8, lines 8-28 read with col. 20, lines 50-55, wherein cited "network host 8 supplying to user terminals 2 and network computer, Fig. 10 {60}, downloading to microcomputer 19 pages of HAL application software, which enabling users to responding to prompts" indicating reference's teaching "supplying or downloading or installing user software to terminals 2 and minicomputers 19", the software enabling users accessing business providers 20a-20d for "obtaining information and performing financial services, col. 1, lines 43-49", and the telephone terminal 2, representing "first terminal", the minicomputer 19, representing "second terminal" and "the two the two are different" as per depiction in Fig. 1 {1, 10}, col. 7, lines 10-14 and same depicted as 1 and 19, Fig. 10, col. 18, lines 23-29. Moreover, cited "each user provided with telephone computer 1 and terminal or PC terminal 19, col. 18, lines 21-29" indicating reference's "provisioning or availability of the terminals to each or all users");

b) configuring the user software to reflect each user's preferences (Col. 8, lines 8-46, wherein cited "host 8 supplying application software to user terminal 2 enabling the user to prompt the user to supply information needed to access the requisite service provider from the computers 20a-20d" indicating reference's teaching "configuring user

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software” and cited “Press # for more Choices” pointing to the software provisioning “choices or preferences” to the user);

c) providing a uniform connection between the remote terminals to a standard international host, the uniform connection including a uniform user interface on screens of the first terminal and the second terminal (Fig. 10 {1, 19 connected to 60 via communication means 18}, col. 18, lines 21-29, wherein cited “telephone computer 1 or PC terminal 19 connecting to network host computer 60 via telephone lines 18” indicating reference’s teaching “connectivity only through telephone thereby pointing to providing uniform connection between telephone or remote terminal and network host computer 60 functioning as standard international host”, since the reference’s providing services in different countries having various languages and formats for representing financial or monetary values, as indicated by: “Application programs including override provisioning within data dictionary, which provision is useful in international finance applications, such for placing ‘.00’ after a numeral representing Japanese Yen, col. 29, lines 37-42, and “preferred embodiment involving banking services in different countries having different languages, col. 45-46”. Moreover, the terminal 1 and PC 19, Fig. 10, representing “first” and “second” terminals respectively and displays and keypads the terminal and PC representing “interfaces” thereof. Application software, prompts etc. are supplied or downloaded to them by host 60 on their respective screens or displays as indicated by: “network host 60 downloading pages of application software, prompts etc, allowing minicomputer or PC 19 to access the service 60a-60d, col. 20, lines 46-55” and display of the type of the prompts is indicated by: “display 2a of telephone terminal 1

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depicting menus comprising fields and formats like "User's last response {showing the name of the service provider input by the user last time}, information being sought by the user, like 'Select A/C desired' and list of prompts indicating choices to users accomplished by pressing a button, such as Press 1 for savings A/C etc., col. 8, lines 30-39", and aforementioned prompts on the interface(s) would remain same in appearance and function {uniform} whether user uses terminal 1 or first terminal or PC 19 or second terminal, since, as mentioned above, the application software, prompts etc., are supplied or downloaded to terminal 1 and PC 19 by the host 60);

d) providing a plurality of business applications resident on the standard international host, in which the configuration of each of the applications is controlled at the standard international host (Col. 18, lines 34-36, wherein cited "essential function of the host computer 60 is to downloading a series of application program pages" indicating reference's teaching "providing a series or plurality of applications" and "host computer 60's downloading application programs" pointing to "the application programs residing or resident in the host 60" and "controlled by the host 60: The down loaded program pages supplying prompts for eliciting information from the user, such as user codes etc., and in response user's entering code the user would have access to requisite service provider from 60a-60d", and as discussed above the host 60 representing "standard international host");

e) linking the standard international host to the service provider (Fig. 10 {60 linked to 60a-60d via telephone lines as indicated by arrows}, wherein, as discussed

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above, "Host 60" representing "standard international host" and service computers "60a-60d" representing "service providers, such as service computer 60a of Bank A);

f) providing secure communication between the user, the standard international host and the service provider (Col. 8, lines 62-65 and col. 22, lines 42-43, wherein cited TPI 10 generating encryption key numbers and the terminal using them to transmitting confidential information, and the session manager 130 handling security and access control" indicating reference's provisioning "secure transmission or communication" means for transmitting or communicating information among the devices including above discussed "user terminals 1 and 19", "host 60 or standard international host" and service providers 60a-60d);

g) providing enhanced error detection and correction for communications between the user, the standard international host and the service provider (Col. 10, lines 34-58, wherein cited "sliding window protocol used for error detection and correction" indicating reference's provisioning "error detection and correction or enhanced error detection and correction" process and a user would use the same for claimed purpose); and

In the following element:

h) providing data compression for communications between the user, the standard international host and the service provider.

Moss et al teach:

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user terminals {user}, standard international host and service provider (As discussed above).

Moss et al do not teach:

data compression

Official notice is taken that "data compression" is an old and well known practice in the data/information communication art.

It would have been obvious to one of ordinary skill in the relevant art at the time of Applicant's invention to incorporate the same into Moss et al's invention, thereby providing a system enabling an efficient transmission of data or information and reduction in storage space.

Claim 5. The method of claim 4 in which the step of configuring the user's software further comprises the step of selecting a language (Moss et al: Col. 30, lines 32-35, wherein cited "choice of language done by the runtime driver and any adjustment of date etc., performed automatically in response to the initial choice" indicating "language is chosen or selected" during runtime, and the user would do so during configuring of the remote terminal, since, as discussed above, application software is supplied or downloaded to the terminals by the host 8, Fig. 1 or 60, Fig. 10).

In the following claim:

Claims 23 and 52. The method of claims 11/35 in which the step of performing a financial transaction is performed by ordering checks.

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Moss et al teach:

performing financial transaction (Col. 1, lines 43-49).

Moss et al do not teach:

ordering checks.

Official notice is taken that ordering checks {online/offline} is old and well known practice in the business art.

It would have been obvious to one of ordinary skill in the relevant art at the time of instant invention to incorporate the feature into Moss et al's invention, thereby taking advantage of the practice in vogue and providing a convenience to a user of ordering from any where at any time.

In the following claim:

Claim 38. The system of claim 33 further comprising a router.

Moss et al do not teach:

router.

Official notice is taken that use routers is old and well known practice in the communication art.

It would have been obvious to one of ordinary skill in the relevant art at the time of the current invention to incorporate router, thereby facilitating connections among the networks and routing incoming data packets to appropriate network(s).

In the following claim:

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Claim 39. The system of claim 33 in which the router is a small financial CAT gateway.

Moss et al teach:

CAT (As discussed above)

Moss et al do not teach:

gateway

Official notice is taken that use of gateways is an old and well known practice in the communications art.

It would have been obvious to one of ordinary skill in the relevant art at time of present invention to incorporate gateway into Moss et al's invention, thereby achieving a connectivity among the varied computers.

(10) Response to Argument

Preliminarily, the Examiner would like to note that the instant application was reviewed by the Board of Patent Appeals and Interferences. A decision was rendered by the Board on September 8, 2004. No substantial amendments have been made to claim 1 since this decision by the Board was rendered in 2004. For example, the version of independent claim 1 presented to the Board in 2004 recited the following:

1. A method for providing remote access to financial services comprising the steps of:
 - a) providing at least one business host;
 - b) selectively electronically linking a server to the business host; and
 - c) selectively electronically linking at least one automated teller machine (ATM) and at least one home banking terminal to the server where a first user interface displayed on the ATM and a second user interface displayed on the home banking terminal are substantially the same.

Currently, claim 1 is recited as follows (the underlined portions reflecting material added and the crossed-out material deleted since last reviewed by the Board):

1. A method for providing remote access to financial services comprising the steps of:
 - a) providing at least one business host;
 - b) selectively electronically linking a server to the business host; and
 - c) selectively electronically linking at least one automated teller machine (ATM) and at least one home banking terminal to the server; and
 - d) based on the electronic linking, displaying where a first user interface ~~displayed on a screen of the ATM~~ and ~~displaying a second user interface displayed on a screen of the home banking terminal, wherein the first user interface and the second user interface~~ are substantially the same.

Since step c) has always specified that the ATM and at least one home banking terminal are electronically linked to the server, it has always been understood that the displays of both the first user interface on a screen of the ATM and the second user interface on a screen of the home banking terminal are based on the electronic link. Furthermore, by electronically displaying information on an ATM, it is understood that the information shown electronically on the ATM is displayed on a screen. In other words, the amendments made to claim 1 have not significantly altered the scope of claim 1 in relation to the version of claim 1 presented to the Board in 2004. Similar unsubstantial amendments have been made to claims 6, 30, and 33.

Appellant submits that Moss fails to "disclose a home banking terminal linked to an ATM" (Page 9 of the Appeal Brief) The Examiner respectfully disagrees. In the

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Board decision rendered on September 8, 2004, the Board of Patent Appeals and Interferences affirmed the previous Examiner on the limitation in question, stating, "Automatic teller machines (ATMs) and home terminals are electronically linked to a host (e.g., col. 29, 58-62)." (Page 4 of the Board decision) In accordance with the Board's decision, this matter is deemed to be settled, thereby rendering Appellant's related arguments (found throughout pages 9-11 of the Appeal Brief) unpersuasive for the reasons established by the Board. Additionally, it should be noted that claim 1 only requires that both the automated teller machine (ATM) and at least one home banking terminal be linked to the server. In other words, there is no express requirement that the ATM and home banking terminal be directly linked to each other; therefore, Appellant is arguing limitations not expressly recited in claim 1.

Furthermore, Appellant argues that Moss does not teach a first user interface on a screen of the ATM and a second user interface on a screen of the home banking terminal that are "substantially the same," as required by claim 1 (pages 11-13 of the Appeal Brief). The Board already addressed this limitation in the Board decision rendered on September 8, 2004:

...In the upper left portion of Fig. 19 is a simulated keypad and display for an ATM (col. 30, lines 41-42), which represents the "first user interface displayed on the ATM." Since both the home computer terminal and the ATM have a display and a 12-button keypad, it appears that the interfaces are "substantially the same." Although there are differences, such as the "ENTER" key on the ATM, the limitation of "substantially the same" is very broad and does not preclude the existence of some differences. Appellants' home banking terminal interface is illustrated in Figs. 3A-3D, but the claims do not require all of these interfaces. It is sufficient that the interface of Fig. 3B (which is very similar to

Fig. 19 of Moss) is "substantially the same" on the home banking terminal and the ATM. (Page 5 of the Board decision)

Since the Board affirmed the Examiner's assertion that Moss addresses the limitation of "selectively electronically linking at least one automated teller machine (ATM) and at least one home banking terminal to the server" and "displaying a first user interface on a screen of the ATM and displaying a second user interface on a screen of the home banking terminal, wherein the first user interface and the second user interface are substantially the same," then it is understood that the displaying step is "based on the electronic linking." Furthermore, the abstract states, "Systems and methods provide communication between a user-friendly terminal, such as a 'home terminal' shaped to resemble a conventional telephone, and a number of service provider computers such as financial institutions." Moss' invention is titled "Home Services Delivery System With Intelligent Terminal Emulator." Since the home terminal is emulating services offered by the ATM and displays screens substantially similar to those shown on the ATM, the Examiner submits that such emulation would be based on the electronic linking of the ATM and home banking terminal. Furthermore, it should be noted that any terminal that performs ATM functions can reasonably be interpreted as an "ATM terminal." Since the home banking terminal emulates the functionality of another terminal running ATM functions, the home banking terminal display functions corresponding to the ATM functions would be "based on the electronic linking" between the two terminals.

Appellant submits that the arguments presented in relation to claim 1 are also applicable to claims 6, 30, and 33. The Examiner's response to these arguments is applicable to the arguments presented for claims 6, 30, and 33 as well.

As per claim 4, Appellant argues that "Moss does not teach or suggest 'plurality of remote terminals..., wherein the second terminal is of a different type than the first terminal.'" (Page 16 of the Appeal Brief) Again, the Board has already established (in the Board decision rendered September 8, 2004) that there is a home banking terminal and an ATM terminal. Claim 4 does not provide any details as to how the terminals are different from one another; therefore, the mere fact that one terminal is a "home banking" terminal as opposed to an "ATM" terminal means that it is different at some level (e.g., programmed differently, named differently, located in a different location, etc.).

The basis of the Examiner's response to Appellant's arguments relies on the Board's statements made throughout the Board decision rendered on September 8, 2004. The Examiner respectfully submits that further challenge of the particular matters which are deemed to have been settled by the Board of Patent Appeals and Interferences (which are most of the arguments currently presented by Appellant) are moot in view of *res judicata*.

(11) Related Proceeding(s) Appendix

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided herein.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Susanna M. Diaz
Primary Examiner
Art Unit 3623

Conferees:



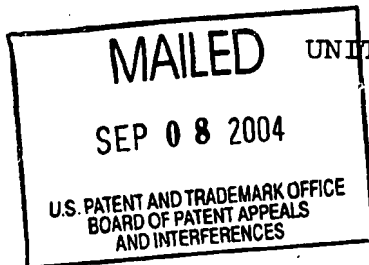
Robert Weinhardt
Business Practice Specialist
Technology Center 3600



C. Michelle Tarae
Patent Examiner
Art Unit 3623

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 17



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WENDELL W. ANTHONY,
JUNDAR HUANG, TRUC NGUYEN,
ASHWIN DOSHI, LESLIE MOSS,
MICHAEL WILLIAMS, DAVID THOMPSON,
HOCK LAW, DONALD EICHENSEER,
STEPHEN EDWARD SAUSSY,
KHANH DO, and BINH LUONG

Appeal No. 2002-1880
Application 09/077,456¹

ON BRIEF

Before THOMAS, BARRETT, and BARRY, Administrative Patent Judges.
BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed May 29, 1998, entitled "Method and System for Performing Banking Transactions, Including Home Banking," which is a national stage application under 35 U.S.C. § 371 of PCT Application PCT/US97/06245, filed April 18, 1997, which is based on and claims priority under 35 U.S.C. § 119(e)(1) from U.S. Provisional Application 60/015,819, filed April 18, 1996.

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Application 09/077,456

This is a decision on appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-55.

We affirm.

BACKGROUND

The invention relates to a system and method for providing remote banking services, including home banking.

Claim 1 is reproduced below.

1. A method for providing remote access to financial services comprising the steps of:
 - a) providing at least one business host;
 - b) selectively electronically linking a server to the business host; and
 - c) selectively electronically linking at least one automated teller machine (ATM) and at least one home banking terminal to the server where a first user interface displayed on the ATM and a second user interface displayed on the home banking terminal are substantially the same.

THE REFERENCE

The examiner relies on the following reference:

Moss et al. (Moss)	5,485,370	January 16, 1996
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THE REJECTIONS

Claims 1-3, 6-22, 24-37, 40-51, and 53-55 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Moss.

Claims 4, 5, 23, 38, 39, and 52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moss.

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We refer to the final rejection (Paper No. 9) (pages referred to as "FR__") and the examiner's answer (Paper No. 14) (pages referred to as "EA__") for a statement of the examiner's rejection, and to the brief (Paper No. 13) (pages referred to as "Br__") for a statement of appellants' arguments thereagainst. We address only the arguments actually presented. Arguments not raised are waived. See 37 CFR § 1.192(c)(8)(iii) and (iv) (1998) (brief must point out errors in the rejection); cf. In re Baxter Travenol Labs., 952 F.2d 388, 391, 21 USPQ2d 1281, 1285 (Fed. Cir. 1991) ("It is not the function of this court to examine the claims in greater detail than argued by an appellant, looking for nonobvious distinctions over the prior art.").

OPINION

Grouping of claims

Appellants group the claims as follows (Br4):

Group I	Claims 1, 6-30, 33-37, 40-51, and 53-55
Group II	Claims 2 and 31
Group III	Claims 3 and 32
Group IV	Claim 4
Group V	Claim 5
Group VI	Claims 38, 39, and 52

Group I

Appellants argue that Moss does not teach the limitation of "at least one automated teller machine (ATM) and at least one home banking terminal to the server where a first user interface

displayed on the ATM and a second user interface displayed on the home banking terminal are substantially the same" (claim 1).

The examiner refers to Fig. 10, elements 1, 4, 19, 60, 60c; abstract, line 4-7; column 18, line 24; column 29, lines 57-62; and Fig. 15, elements 584, 586, and 588 (FR3; EA4).

Appellants argue that these portions of Moss do not indicate that the ATM and the home banking terminal have substantially the same user interface (Br4-6).

The examiner responds by discussing various portions of Moss (EA10-20), but without pointing to interface teachings. Seemingly the best statement of the examiner's position is the following (EA20): "Wording 'telephone-computer 1 and an equivalent terminal 19' [at col. 18, lines 25-26], clearly indicate that the devices have close similarity and ought to depict substantially the same interface displayed on them."

We are not persuaded by the examiner's reasoning because it is based on speculation about the appearance of the interfaces. Moreover, the PC terminal 19 is a home computer terminal, not an ATM. However, we find that the limitation, as broadly recited, is met by Moss. Moss discloses a home computer terminal for financial services shaped to resemble a conventional desktop telephone, which corresponds to the "home banking terminal." Automatic teller machines (ATMs) and home terminals are electronically linked to a host (e.g., col. 29, 58-62). The

terminal has a liquid crystal display 2a and a standard 12-button telephone keypad (col. 4, lines 7-15; col. 13, lines 39-43), which corresponds to the "second user interface displayed on the home banking terminal." The display may include the user's last response, the information being sought, and a list of prompts indicating the choices available to the user by pressing a single button in the keypad as well as a series of help prompts (col. 8, lines 30-39). Figure 19 discloses a hardware simulation screen to allow an applications programmer to test paths within the applications program (col. 30, lines 36-41). In the upper left portion of Fig. 19 is a simulated keypad and display for an ATM (col. 30, lines 41-42), which represents the "first user interface displayed on the ATM." Since both the home computer terminal and the ATM have a display and a 12-button keypad, it appears that the interfaces are "substantially the same." Although there are differences, such as the "ENTER" key on the ATM, the limitation of "substantially the same" is very broad and does not preclude the existence of some differences. Appellants' home banking terminal interface is illustrated in Figs. 3A-3D, but the claims do not require all of these interfaces. It is sufficient that the interface of Fig. 3B (which is very similar to Fig. 19 of Moss) is "substantially the same" on the home banking terminal and the ATM. For these reasons, the rejection of claims 1, 6-30, 33-37, 40-51, and 53-55 is sustained.

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Group II

Appellants argue that Moss does not teach the limitation of "displaying information on the remote terminal in a language selected by the user during a configuring use of the remote terminal" (claim 2). Appellants refer to the following statement by the examiner in the final rejection (FR18):

Applicant will appreciate that when a German user would configure his computer/terminal etc., he would first select the language and the [sic, then] would see that information during configuration would be displayed in the language (German) he selected.

Appellants argue that this language is more appropriate to an obviousness rejection (Br7):

To that extent, the Examiner will appreciate that it is standard practice in the technology industry to have computers and/or electronic terminals destined for a particular country (e.g., Germany) to be pre-configured with the language of that particular country (e.g., German). Thus, a user in that country (e.g., German user) does not have to first configure and select the language of choice for his or her computer/terminal.

The examiner responds that "German user" meant a user who intended to use the remote terminal for transactions in the German language, wherever in the world he might be, not just a German user in Germany (EA23).

We give no weight to the examiner's statement in the final rejection because the examiner does not point to any factual support in Moss.

The examiner refers to column 29, lines 43-50, and column 30, lines 7-10 and 27-35 (EA22).

Initially, we note that the remote terminal can be either a home banking terminal or an ATM. Although Moss discloses different language versions at column 29, lines 43-50, this disclosure does not state that the languages are selected during a "configuring use" and, with only this disclosure, the language selection could be pre-configured as argued by appellants. However, Moss discloses that "[a]ccording to the preferred embodiment, the choice of language is done by the runtime driver, and any adjustment of date, format, font, and so forth is performed automatically in response to this initial choice" (emphasis added) (col 30, lines 32-35). The fact the language is selected at "runtime" indicates that the language is not pre-configured, but is user selected "during a configuring use of the remote terminal." Since applications are provided to the home terminal by the service provider in Moss, and are not installed like regular PC software, the runtime selection of a language would be done by the home terminal user. Furthermore, ATMs are in public places and need to allow for different languages of different users. This is also consistent with the teaching of runtime language selection in Moss. As an aside, we note that selection of language at ATMs has been widely known and used in the U.S. and Europe for many years, e.g., in the U.S. the choice is usually between English and Spanish, while in Germany the choices are at least German, English, and French--claim 2

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appears to read on this situation. The rejection of claims 2 and 31 is sustained.

Group III

Appellants argue that Moss does not teach the limitation that "the remote terminal can distinguish between the first user and the second user during subsequent accessing of financial services and display the language previously selected by that user" (claim 3). Appellants argue that the examiner points to Figs. 16 and 17 and column 29, lines 45-54, but this merely discusses different language versions of a main English version of an application program (Br8).

The examiner responds that once a user has selected a language in Moss, the system remembers the selection and transaction performed for subsequent use of the terminal and thus recognizes users who had used the system for an activity/-transaction in a selected language, referring to column 19, line 66 to column 20, line 15; column 22, lines 42-45 and 61-67; column 23, lines 19-36 (specifically lines 23-25 and 34-36); and column 8, lines 30-38 (EA23).

Moss discloses that the session manager (SM) stores information relating to the user of the terminal and that all transactions occur within the context of the specific customer and the service selected based on the customer identification information (col. 19, line 66 to col. 20, line 15). This teaches

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that "the remote terminal can distinguish between the first and the second user during subsequent accessing of financial services" (claim 3) based on the customer identification number. Although the rejection would have been better made under 35 U.S.C. § 103(a) because no specific mention is made of the language choice being part of the "context," we think that the context in Moss reasonably teaches all customer-specific parameters, such as bank account number and language choice. Thus, we sustain the rejection of claims 3 and 32.

Group IV

Appellants argue that Moss does not teach the limitation of "providing a uniform connection between the remote terminals to a standard international host" (claim 4). It is argued that column 19, lines 23-26, which in the part of Moss relied upon by the examiner, states that "accessing of the various service computers 60a-d and countless others, requires that the network host computer be enabled to communicate to a like variety of protocols" and so does not suggest a uniform connection (Br9).

The examiner responds that "[t]he controlling device, containing applications, is the network host computer 60 of Fig. 10, which facilitate[s] provision of uniform connection to the overall Moss et al's system no matter what [] protocols were used by component devices/systems" (EA24).

We do not understand the examiner's reasoning. However, Moss discloses that a telephone-computer 1 or an equivalent PC terminal 19 (Fig. 10), which are both considered "remote terminals," communicates with a network host computer 60 via conventional telephone lines (col. 18, lines 22-30). There is no suggestion in Moss that the terminals use anything but a "uniform connection" to connect to host 60. The host computer 60 in Fig. 10 is considered the "standard international host." We note that the limitation of "providing a uniform connection between the remote terminals to a standard international host" (claim 4), requires only a uniform connection between remote terminals and the host, and says nothing about connections between the host and other computers. Therefore, appellants' arguments concerning the host's communication with different service provider computers 60a-60d using different protocols at column 19, lines 23-26, has nothing to do with the actual claim limitation.

Appellants secondly argue that Moss does not teach the limitation of "providing a plurality of business applications resident on the standard international host, in which the configuration of each of the applications is controlled at the standard international host" (claim 4).

The examiner responds that applications on Moss are updated, modified, and upgraded (EA25).

Moss discloses that "[o]ne essential function of the network host computer 60 is to provide a series of application program 'pages' which are downloaded to the terminal" (col. 18, lines 34-36). Moss discloses that the terminal may be used for financial services, databases, airline reservation systems, and the like (col. 3, lines 1-13), which teaches "providing a plurality of business applications resident on the standard international host." Moss discloses that application pages resident in the home terminal are updated as necessary and "[s]uperseded and outdated pages are purged, and revised versions replace earlier versions" (col. 14, lines 43-44). . Since application pages are downloaded from the host, and the host controls what configuration is run by the home terminal, "the configuration of each of the applications is controlled at the standard international host" as claimed.

For the reasons stated above, we sustain the rejection of claim 4.

Group V

Appellants argue that Moss does not teach "the step of configuring the user's software further comprises the step of selecting a language" (claim 5).

For the reasons stated in the discussion of claim 2, Group 2, we find that this limitation is taught by Moss. The rejection of claim 5 is sustained.

Group VI

Claim 38 recites that the system of claim 33 includes a router. The examiner took Official Notice that routers were old and well known in the communications art and concluded that it would have been obvious to use routers (FR17).

As noted by the examiner, appellants do not traverse the taking of Official Notice (EA26).² Appellants argue that this claimed router is not disclosed or suggested by Moss, but do not point out the error in the examiner's position. Thus, the rejection of claim 38 is sustained.

Claim 39 recites: "The system of claim 33 in which the router is a small financial CAT gateway." Initially, we note that since claim 39 depends on claim 33, which does not recite a router, the reference to "the router" lacks antecedent basis; perhaps, claim 39 was meant to depend on claim 38. The examiner

² A traverse of a finding of Official Notice requires more than just a statement that the fact is not in a reference. A "traverse" is "[a] formal denial of a factual allegation in the opposing party's pleading," Black's Law Dictionary (7th ed. 1999). That is, a traverse is similar to answering the factual allegations in a complaint in a civil action. Cf. Fed. R. Civ. P. 8(b) ("A party shall . . . admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial."). An applicant may traverse a finding of Official Notice by simply averring that "those of ordinary skill in the art were not aware of [the fact]" or that "applicant is without any knowledge or information as to whether those of ordinary skill in the art were aware of [the fact]." This avoids putting the Office to the task of proving a fact which applicant knows.

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took Official Notice that the particular type of router was old and well known and concluded that it would have been obvious to use such a router in a financial application (FR17).

As noted by the examiner, appellants do not traverse the taking of Official Notice (EA26). Appellants argue that this claimed router is not disclosed or suggested by Moss, but do not point out the error in the examiner's position. Thus, the rejection of claim 39 is sustained.

Claim 52 recites that the business application allows the user to order checks. The examiner took Official Notice that ordering checks online or offline was an old and well-known practice in business computing and concluded that it would have been obvious to include this as one of the financial services in Moss (FR16).

As noted by the examiner, appellants do not traverse the taking of Official Notice (EA26). Appellants argue that this claimed ordering of checks is not disclosed or suggested by Moss, but do not point out the error in the examiner's position. Thus, the rejection of claim 52 is sustained.

Appellants mention claims 49 and 53 in this group, but the grouping of claims does not include these claims. The claims have not been considered by the examiner (EA26) and we do not consider them.

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Application 09/077,456

CONCLUSION

The rejections of claims 1-55 are sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

JAMES D. THOMAS
Administrative Patent Judge

Lee E. Barrett
LEE E. BARRETT
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

LANCE LEONARD BARRY
Administrative Patent Judge

Appeal No. 2002-1880
Application 09/077,456

KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
SUITE 900
WASHINGTON, DC 20005